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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 30th December, 1972/Pausa 9, 1894 (Saka)

The following Act of Parliament received the assent of the President on the 30th December, 1972, and is hereby published for general information:

THE STATE FINANCIAL CORPORATIONS (AMENDMENT) ACT, 1972

No. 77 OF 1972

[*30th December, 1972*]

An Act further to amend the State Financial Corporations Act, 1951.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. This Act may be called the State Financial Corporations (Amendment) Act, 1972. Short title.

63 of 1951. 2. In the State Financial Corporations Act, 1951 (hereinafter referred to as the principal Act), in section 2,— Amendment of section 2.

(*a*) after clause (*a*), the following clause shall be inserted, namely:—

18 of 1964. '(*aa*) "Development Bank" means the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964;';

(*b*) for clause (c), the following clause shall be substituted, namely:—

'(c) "industrial concern" means any concern engaged or to be engaged in—

(i) the manufacture, preservation or processing of goods;

(*ii*) mining;

(*iii*) the hotel industry;

(*iv*) the transport of passengers or goods by road or by water or by air;

(*v*) the generation or distribution of electricity or any other form of power;

(*vi*) the maintenance, repair, testing or servicing of machinery of any description or vehicles or vessels or motor boats or trailers or tractors;

(*vii*) assembling, repairing or packing any article with the aid of machinery or power;

(*viii*) the development of any contiguous area of land as an industrial estate;

(*ix*) fishing or providing shore facilities for fishing or maintenance thereof; or

(*x*) providing special or technical knowledge or other services for the promotion of industrial growth.

Explanation.—The expression "processing of goods" includes any art or process for producing, preparing or making an article by subjecting any material to a manual, mechanical, chemical, electrical or any other like operation;'.

Amendment of section 4.

3. In section 4 of the principal Act, in sub-section (*3*),—

(*a*) after clause (*b*), the following clause shall be inserted, namely:—

"(*ba*) the Development Bank,";

(*b*) in clause (*d*), after the brackets and letter "(*b*)", the brackets and letters ",(*ba*)" shall be inserted.

Insertion of new section 4A.

4. After section 4 of the principal Act, the following section shall be inserted, namely:—

Special class of shares.

"4A. (*1*) From out of the unissued capital of the Financial Corporation, as on the commencement of the State Financial Corporations (Amendment) Act, 1972, such part as the State Government may, in consultation with the Reserve Bank, specify from time to time, shall be allocated for the issue of a special class of shares.

(*2*) The special class of shares so allocated under sub-section (*1*), shall be,—

(*a*) divided into such number of shares of the same face value as the State Government may, in consultation with the Reserve Bank, determine;

(*b*) subscribed by the State Government and the Reserve Bank and they may do so in such proportion as may be agreed upon by and between them and the Financial Corporation shall make allotment of such shares accordingly.

(*3*) The funds representing the capital subscribed as aforesaid shall be used only for such purposes, in such manner and for render-

ing assistance to such class or category of industrial concerns, as the Reserve Bank may, in consultation with and after obtaining the advice of the State Government, specify in this behalf from time to time and nothing contained in section 47 or section 48 shall apply thereto.

(4) The rate of dividend declared on the special class of shares in respect of any accounting year of a Financial Corporation shall not exceed the rate of dividend in respect of its other shares.

(5) Nothing contained in sub-sections (2) to (5) of section 4, section 5, and sub-section (1) of section 6, shall apply to the special class of shares.".

Amendment of section 7.

5. In section 7 of the principal Act,—

(a) in sub-section (1), for the words "and with the approval of the Central Government", the words "based on the advice of the Reserve Bank", shall be substituted;

(b) in sub-section (2), in clause (b),—

(i) for the words "or against bonds and debentures issued by the Financial Corporation and guaranteed by the State Government", the words "or subject to the previous approval of the State Government, against bonds and debentures issued by the Financial Corporation" shall be substituted;

(ii) after the words "date on which money is so borrowed", the words "and every such bond and debenture shall be guaranteed by the State Government" shall be inserted;

(iii) in the proviso, for the word "sixty", the word "ninety" shall be substituted.

Insertion of new section 7A.

6. After section 7 of the principal Act, the following section shall be inserted, namely:—

Power to transfer rights.

"7A. The rights and interests of the Financial Corporation (including any other rights incidental thereto) in relation to any loan or advance granted or any amount recoverable by it, may be transferred by the Financial Corporation either in whole or in part, by the execution or issue of any instrument or by transfer of any instrument by endorsement or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Financial Corporation may, notwithstanding such transfer, act as the trustee for the transferee.".

Amendment of section 10.

7. In section 10 of the principal Act,—

(a) for clause (c), the following clause shall be substituted, namely:—

"(c) one director nominated by the Development Bank;";

(b) in clause (f), after the words "in consultation with", the words "and after obtaining the advice of" shall be inserted.

Amendment of section 11.

8. In section 11 of the principal Act, in sub-section (3), for the words "for not more than two full consecutive terms", the words "so, however, that no person elected as director shall hold office for a continuous period exceeding eight years" shall be substituted.

Amendment of section 14.

9. In section 14 of the principal Act, in sub-section (1), for the words "The managing director or any other director may resign his office by giving notice thereof in writing to the State Government", the words, brackets, letters and figures "The managing director may, by giving notice in writing to the State Government, and any director elected under clause (d) or clause (e) of section 10 may, by giving notice in writing to the Chairman of the Board, resign his office" shall be substituted.

Amendment of section 17.

10. In section 17 of the principal Act, in sub-section (1),—

(i) to clause (a), the following proviso shall be added, namely:—

"Provided that the Board may, if in its opinion it is necessary in the public interest so to do, permit the managing director to undertake, at the request of the Central Government or the State Government or the Reserve Bank, such part-time honorary work as is not likely to interfere with his duties as managing director.";

(ii) in clause (d), after the words "salary and allowances", wherever they occur, the words "and be subject to other terms and conditions of service" shall be inserted.

Amendment of section 18.

11. In section 18 of the principal Act, in sub-section (1), in clause (a),—

(i) for the words and figures "the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948", the words "the Development Bank" shall be substituted; 15 of 1948.

(ii) in the proviso, for the words "the Industrial Finance Corporation of India", the words "the Development Bank" shall be substituted.

Amendment of section 19.

12. In section 19 of the principal Act,—

(a) in sub-section (3A), for the words and figures "the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948", the words "the Development Bank" shall 15 of 1948. be substituted;

(b) in sub-section (4), for the words and figures "the Industrial Finance Corporation established under the Industrial Finance Corporation Act, 1948", the words "the Development Bank" shall be 15 of 1948. substituted.

Substitution of new section for section 22.

13. For section 22 of the principal Act, the following section shall be substituted, namely:—

Offences and agencies.

"22. The Financial Corporation shall establish its head office and other offices and agencies at such places as the State Government may, from time to time, specify and save as aforesaid, the Financial Corporation may establish additional offices or agencies in such other places within the State as it may consider necessary.".

Amendment of section 23.

14. To section 23 of the principal Act, the following proviso shall be added, namely:—

"Provided that the State Government may, in consultation with and after obtaining the advice of the Reserve Bank, specify the class or categories of posts in respect of which appointments may be made by the Board on such remuneration and other conditions of service as the Board may determine, and no regulation made under this Act shall apply to such posts in respect of matters so determined by the Board.".

Amendment of section 25.

15. In section 25 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) after clause (*c*), the following clause shall be inserted, namely:—

"(*ca*) transferring for consideration any instruments relating to loans and advances granted by it to industrial concerns;";

(*ii*) in clause (*d*),—

(*a*) after the words "the State Government", the words "or the Development Bank" shall be inserted;

(*b*) for the words "in the transaction of any business with an industrial concern in respect of loans or advances granted, or debentures subscribed, by any one of them", the words "in respect of any matter connected with, or arising out of, the grant of loans or advances to an industrial concern, or subscription to debentures of an industrial concern" shall be substituted;

(*iii*) after clause (*d*), the following clause shall be inserted, namely:—

"(*da*) subscribing to the stocks, shares, bonds or debentures of an industrial concern from out of the funds representing the capital subscribed in accordance with the provision of section 4A;";

(*b*) in sub-section (*2*), the words "or unless it is covered by a guarantee falling under any credit guarantee scheme framed by the Central Government or such other Government or financial institution as the Central Government may notify in this behalf" shall be inserted at the end;

(*c*) in sub-section (*3*), for the word, brackets and letter "and (*c*)", the brackets, letters and word "(*c*) and (*ca*)" shall be substituted;

(*d*) after sub-section (*3*), the following sub-sections shall be inserted, namely:—

"(*4*) Nothing contained in this section shall entitle any Financial Corporation to hold shares in any company, whether as pledgee, mortgagee or absolute owner, of an amount exceeding thirty per cent. of the subscribed share capital of that company or thirty per cent. of its own paid-up share capital and free reserves, whichever is less.

(5) If, on the commencement of the State Financial Corporations (Amendment) Act, 1972, any Financial Corporation is holding shares in excess of the limits specified in sub-section (4), the Corporation shall report the matter forthwith to the Reserve Bank and shall, within such period as the Reserve Bank may allow, so reduce its share holdings as to conform to the provisions of that sub-section.".

Amendment of section 26.

16. Section 26 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered,—

(i) for the words, brackets and letters, "The Financial Corporation shall not enter into any arrangements under clauses (a) and (g) of", the words, brackets and figures "On and from the commencement of the State Financial Corporations (Amendment) Act, 1972, the Financial Corporation shall not enter into any arrangements under clause (a), (ca) or (g) of" shall be substituted;

(ii) after the words "in respect of all such arrangements", the words "together with the amount of the face value of the shares and stocks of that concern whether subscribed or agreed to be subscribed and the outstanding liabilities on account of under-writing agreements and the deferred payments guarantees" shall be inserted;

(iii) in clause (i), for the words "twenty lakhs of rupees in the case of a public limited company", the words "thirty lakhs of rupees in the case of a company" shall be substituted;

(iv) in clause (ii), for the words "ten lakhs", the words "fifteen lakhs" shall be substituted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Nothing contained in sub-section (1) shall apply to any transaction entered into by a Financial Corporation with any industrial concern before the commencement of the State Financial Corporations (Amendment) Act, 1972, and in relation to every such transaction, section 26 of the principal Act shall continue to apply as if the said section had not been amended by the first-mentioned Act.".

Amendment of section 27.

17. In section 27 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) Where any arrangement entered into by the Financial Corporation with an industrial concern provides for the appointment by the Financial Corporation of one or more directors of such industrial concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the industrial concern, and any provision regarding share qualification, age limit, number of directorships, removal of office of directors and such like 1 of 1956.

conditions contained in any such law or instrument aforesaid shall not apply to any director appointed by the Financial Corporation in pursuance of the arrangement as aforesaid.

(3) Any director appointed in pursuance of sub-section (2) shall—

(*a*) hold office during the pleasure of the Financial Corporation and may be removed or substituted by any person by order in writing by the Financial Corporation;

(*b*) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(*c*) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.".

Amendment of section 28.

18. Section 28 of the principal Act shall be re-numbered as sub-section (*1*) thereof, and—

(*a*) in sub-section (*1*) as so re-numbered,—

(*i*) in clause (*b*), after the word "clauses", the brackets and letters "(*da*)" shall be inserted;

(*ii*) after clause (*c*), the following clause shall be inserted, namely:—

"(*d*) grant any form of assistance to any industrial concern in respect of which the aggregate of the paid-up share capital and free reserves exceeds one crore of rupees.";

(*b*) after sub-section (*1*) as so re-numbered, the following sub-sections shall be inserted, namely:—

'(*2*) The Financial Corporation shall not enter into any kind of business with any industrial concern, of which any of the directors of the Financial Corporation is a proprietor, partner, director, manager, agent, employee or guarantor, or in which one or more directors of the Financial Corporation together hold substantial interest:

Provided that this section shall not apply to any industrial concern if any director of the Financial Corporation—

(*i*) is nominated as a director of the Board of such concern by the Government or a Government company as defined in section 617 of the Companies Act, 1956, or by a corporation established by or under any other law; or

1 of 1956.

(*ii*) is elected on the Board of such concern by virtue of shares held in the concern by Government or a Government company as defined in section 617 of the Companies Act, 1956, or by a Corporation established by or under any other law, by reason only of such nomination or election, as the case may be.

1 of 1956.

Explanation.—"Substantial interest" in relation to an industrial concern means the beneficial interest held by one or more of the directors of the Financial Corporation or by any relative [as defined in clause (*41*) of section 2 of the Companies Act, 1956] of such director whether singly or taken together, in the shares of the industrial concern, the aggregate amount paid-up on which either exceeds five lakhs of rupees or five per cent. of the paid-up share capital of the industrial concern, whichever is less. 1 of 1956.

(*3*) The provisions of sub-section (*2*)—

(*i*) shall not apply to any transaction relating to the business entered into prior to the commencement of the State Financial Corporations (Amendment) Act, 1972, and all such business and any transaction in relation thereto may be implemented or continued as if that Act had not come into force;

(*ii*) shall apply only so long as the conditions precedent to such disability as set out in the sub-section continue.'.

Amendment of section 29.

19. In section 29 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) after the words "of any loan or advance or any instalment thereof", the words "or in meeting its obligations in relation to any guarantee given by the Corporation" shall be inserted;

(*ii*) for the words "right to take over the management of the industrial concern", the words "right to take over the management or possession or both of the industrial concern" shall be substituted;

(*b*) in sub-section (*4*),—

(*i*) for the words "Where the management of an industrial concern is taken over by the Financial Corporation or any property is transferred and realised by it", the words "Where any action has been taken against an industrial concern" shall be substituted;

(*ii*) for the words "as incidental to such management, or transfer and realisation", the words "as incidental thereto" shall be substituted;

(*iii*) after the words "which is received by it", the words "from such management, or transfer and realisation" shall be omitted;

(*c*) in sub-section (*5*), for the words "Where the Financial Corporation takes over the management of an industrial concern", the words "Where the Financial Corporation has taken any action against an industrial concern" shall be substituted.

Amendment of section 31.

20. In section 31 of the principal Act, in sub-section (*1*), after the words "any default in repayment of any loan or advance or any instalment thereof", the words "or in meeting its obligations in relation to any guarantee given by the Corporation" shall be inserted.

Amendment of section 32.

21. In section 32 of the principal Act,—

(*a*) in sub-section (*11*), in clause (*b*), the words "or by any judge of the principal court of civil jurisdiction" shall be inserted at the end;

(*b*) after sub-section (*11*) as so amended, the following sub-section shall be inserted, namely:—

"(*12*) For the removal of doubts it is hereby declared that any court competent to grant an *ad interim* injunction under this section shall also have the power to appoint a Receiver and to exercise all the other powers incidental thereto.".

Amendment of section 33.

22. In section 33 of the principal Act, in sub-section (*2*), after the words, brackets and figures "the State Bank of India (Subsidiary Banks) Act, 1959", the words, figures and brackets "or in any of the banks specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970" shall be inserted.

38 of 1959.

5 of 1970.

Amendment of section 35.

23. In section 35 of the principal Act, sub-section (*3*) shall be omitted.

Amendment of section 35A.

24. In section 35A of the principal Act,—

(*a*) for the words "the State Government and the Reserve Bank", wherever they occur, the words "the State Government, the Reserve Bank and the Development Bank" shall be substituted;

(*b*) in the proviso to sub-section (*1*), for the word "ten", the word "twenty-five" shall be substituted.

Amendment of section 37.

25. In section 37 of the principal Act, for sub-section (*1*) and the proviso thereto, the following sub-section shall be substituted, namely:—

"(*1*) The affairs of the Financial Corporation shall be audited by auditors duly qualified to act as auditors of companies under sub-section (*1*) of section 226 of the Companies Act, 1956, who shall be appointed by the State Government in consultation with the Comptroller and Auditor-General of India and the Financial Corporation shall pay to the auditors so appointed such remuneration as the State Government may fix.".

1 of 1956.

Amendment of section 39.

26. In section 39 of the principal Act, in sub-section (*1*), after the words "in consultation with", the words ", and after obtaining the advice of," shall be inserted.

Amendment of section 46A.

27. In section 46A of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "and any other State", the words "and one or more other States not served in whole or in part by a Financial Corporation" shall be substituted;

(*ii*) for the words "should serve its needs", the words "should serve the needs of those States or of any area therein" shall be substituted;

(*iii*) after the words "serve the needs of those States", the words "or, as the case may be, of the area therein" shall be inserted;

(*iv*) the words "and any Financial Corporation or any State may enter into separate or successive agreements as aforesaid with one another or with other Financial Corporations of States and in relation to different areas of the States" shall be inserted at the end;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Any agreement entered into under sub-section (*1*) may be modified or rescinded by mutual agreement between the parties thereto and every such mutual agreement shall also provide for the apportionment of assets and liabilities.".

Amendment of section 48.

28. In section 48 of the principal Act, for sub-section (*3*), the following sub-section shall be, and shall be deemed always to have been, substituted, namely:—

"(*3*) All regulations made under this section shall be published in the Official Gazette and any such regulation shall have effect from such earlier or later date as may be specified in the regulations.".

K. K. SUNDARAM,
Secy. to the Government of India.

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